

REMARKS

In the office action, claims 13-15 and 18-19 have been rejected under 35 U.S.C. §102, and claims 13-20 have been rejected under 35 U.S.C. §103.

In response, claims 13-20 have been cancelled and new claims 21-28 have been added. Accordingly, claims 21-28 are pending in the application.

Applicants extend gratitude to Examiner Lewis for taking the time to participate in a telephonic interview with Lauren T. Emr (the undersigned) on October 8, 2002. During the telephone interview, Applicants assisted Examiner Lewis in appreciating the uniqueness of the root or tuber starch of the claimed invention.

As discussed with Examiner Lewis, the root or tuber starch of the present invention is not a naturally occurring starch. Rather, the root or tuber starch of the present invention is obtained from a plant that has been genetically modified to have reduced amylose content. See pages 4-5 of the application.

Applicants indicated, during the telephone interview, their willingness to amend the claims to more specifically define the root or tuber starch of the invention. By this amendment, claims 13-20 have been cancelled and new claims 21-28 have been added. New claims 21-28 recite that the root or tuber starch is obtained from a plant that has been genetically modified to have reduced amylose content.

Rejection Under §102

Claims 13-15 and 18-19 have been rejected under §102 as being anticipated by WO 97/03120 to Seppala et al. Seppala et al. disclose a process for thermoplasticizing a starch, a melt processible polymer composition and a thermoplasticized polymer component. The

starch component disclosed by Seppala et al. is a natural starch having an amylopectin concentration of 100 to 0%.

The present invention is for a process for preparing a hydrophobic starch. The starch component of the present invention is a root or tuber starch having at least 95 wt%. of amylopectin. The Examiner contends that starch of the present invention is anticipated by Seppala et al.'s disclosure of a natural starch having an amylopectin concentration of 100 to 0%. Applicants respectfully disagree.

In the previous response, Applicants explained that there are no natural root or tuber starches that have an amylopectin concentration of greater than about 80 wt.%. By this amendment, Applicants have added new claims that specify the root or tuber starch of the present invention as being obtained from a plant that has been genetically modified, i.e. not naturally occurring. Support for the amendment can be found on pages 4-5 of the application.

Seppala et al. do not disclose a root or tuber starch that is obtained from a plant that has been genetically modified to have reduced amylose content. Accordingly, Seppala et al. do not anticipate the claimed invention. Applicants respectfully request that the rejection under §102 based on Seppala et al. be reconsidered and withdrawn.

Rejection Under §103

Claims 13-20 have been rejected under §103 as being unpatentable over Seppala et al. in view of WO 94/24169 to Batelaan et al. As discussed above, Seppala et al. disclose processes that utilize natural starches, only. Batelaan et al. disclose methods for making amid-modified polysaccharides. Batelaan et al. do not disclose or suggest methods for making starches, nor do they disclose or suggest that their methods would be suitable for use with starches.

No evidence has been put forth to support the idea that polysaccharides and root or tuber starches having at least 95 wt.% of amylopectin have similar properties, or that the two would be interchangeable in the methods disclosed by Batelaan et al.

In fact, the root or tuber starch of the present invention has very unique properties. For example, the root or tuber starch of the present invention has a much lower content of lipids and proteins than other starches having comparable amylopectin content. See page 6 of the application.

In order establish a *prima facie* case of obviousness, one of the criteria to be met is that upon combining the prior art references, they must teach or suggest all of the claim limitations.

Applicants have discussed above the importance of the root or tuber starch having an amylopectin content of at least 95 wt.%. Additionally, Applicants have established that such root or tuber starches are not naturally occurring, rather, they are obtained from a plant that has been genetically modified to have reduced amylose content.

Neither Seppala et al., nor Batelaan et al., disclose or suggest the use of a root or tuber starch containing at least 95 wt.% of amylopectin, wherein the root or tuber starch is from a plant genetically modified to have reduced amylose content.

Upon combining the teachings of Seppala et al. with Batelaan et al., all of Applicants' claim limitations are not taught or suggested. Therefore, based on the foregoing discussion, Applicants' claimed invention is not obvious over Seppala et al. in view of Batelaan et al.

In light of the foregoing amendments and remarks, Applicants respectfully submit that the application is now in condition for allowance. If the Examiner believes a telephone

Application No.: 09/869,410
Filing Date: June 25, 2001
Docket No.: 294-103 PCT/US
Page 6

discussion with the Applicant's representative would be of assistance, she is invited to contact the undersigned at her convenience.

Respectfully submitted,



Lauren T. Emr
Registration No.: 46,139
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(516) 822-3550